

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION

UNITED STATES OF AMERICA

vs.

(1) JOE ALBERT SMITH

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NO: MO:10-CR-00059(1)-RAJ

ORDER FOR SERVICE AND ADVISORY

BEFORE THE COURT is Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody pursuant to Title 28 U.S.C. § 2255. Preliminary examination of the Motion indicates that summary dismissal is not appropriate, especially as it relates to Movant's multiple claims of ineffective assistance of counsel.

Accordingly, **IT IS HEREBY ORDERED** that the District Clerk **SERVE** copies of the Motion to Vacate and this Order upon Respondent through the United States Attorney for the Western District of Texas.

IT IS FURTHER ORDERED Respondent shall demonstrate within **ninety (90) days** after receipt of this Order as to why the relief Movant seeks should not be granted.

IT IS FINALLY ORDERED that Movant (1) JOE ALBERT SMITH shall take notice of and comply with the following:

Duty to Inform Court of Change of Address

Movant must immediately notify the Clerk and Respondent's counsel in writing of any change in address. Movant shall caption any such change of address advisory as "Notice to the Court of Change of Address" and shall not include any motion or other matter in such notice. Such notice shall contain only information pertaining to the address change and the effective date of such change of address. Failure to immediately notify the Clerk and Respondent's counsel of any change in Movant's mailing address will be interpreted by the Court as a failure to prosecute and may result in the Court dismissing the Motion to Vacate.

Duty to Respond to Opposing Motions within Fourteen (14) Days

Local Court Rule CV-7(e) provides that a party opposing a motion must file a response to the motion within fourteen (14) days of service of that motion and that said response is limited to 20 pages unless otherwise authorized by the Court. Any failure to file such a timely response may be construed by the Court as a lack of opposition to the motion and result in the Court granting the motion as unopposed. Additionally, if Movant fails to respond in a timely manner to a motion filed by Respondent, the Court *may* dismiss Movant's case for want of prosecution.

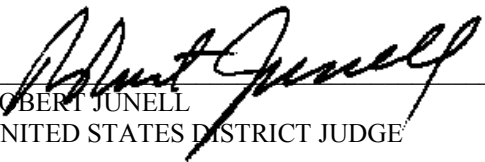
Ability to File Timely Reply

Pursuant to Local Court Rule CV-7(f), Respondent *may* file a reply in support of a motion, and any reply *shall* be filed within 7 days of the service of the response, but the Court need not wait for the reply before ruling on the motion. Any reply shall be limited to 10 pages, unless otherwise authorized by the Court. Absent leave of the Court, no further submissions on the motion are allowed by either side.

Duty to Serve Opposing Counsel

Movant is obligated under both the Federal Rules of Civil Procedure and this Court's Local Rules to send a copy of all pleadings, motions or other documents he submits to the Clerk of this Court for filing to Respondent or, after an attorney has made an appearance for Respondent, Respondent's counsel of record herein. The Court will disregard any pleading, motion, or other document submitted for filing by Movant that fails to contain the "certificate of service" required under Federal Rule of Civil Procedure 5(d). The "certificate of service" must state the date and method (e.g., hand delivery, certified mail or regular mail) by which Movant sent a copy of the pleading, motion or document to Respondent or Respondent's counsel of record. Once an attorney makes an appearance on behalf of a Respondent, Movant must send Respondent's attorney a copy of any pleading, motion, or document submitted for filing by Movant.

SIGNED on this 13th day of August, 2012.



ROBERT JUNELL
UNITED STATES DISTRICT JUDGE